

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 50, “Apportionment of Income for Resident Shareholders of S Corporations,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

These amendments are proposed as a result of 2013 Iowa Acts, House Files 615, 620 and 625, and 2013 Iowa Acts, Senate Files 295 and 452.

Item 1 amends subrule 42.13(2) to reflect the increase in the Iowa earned income tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 2 amends the implementation sentence for rule 701—42.13(422).

Items 3 and 4 amend subrule 42.22(4) and the implementation sentence for rule 701—42.22(15E,422) for individual income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013.

Item 5 amends paragraph 42.32(4)“a” for individual income tax to provide for the increase in the cap for the school tuition organization tax credit starting with the 2014 tax year.

Item 6 amends subrule 42.32(5) for individual income tax to provide that partnerships, limited liability companies, S corporations, estates, and trusts are eligible to claim the school tuition organization tax credit for tax years beginning on or after January 1, 2013.

Item 7 amends the implementation sentence for rule 701—42.32(422).

Item 8 amends subrule 42.41(1) for individual income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012.

Item 9 amends the implementation sentence for rule 701—42.41(15,422).

Item 10 amends rule 701—42.45(15) for individual income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012.

Item 11 amends 701—Chapter 42 by adopting new rule 701—42.50(422) to provide for the Iowa taxpayers trust fund tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 12 amends rule 701—50.1(422) to provide that estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income that is currently available to Iowa resident shareholders of S corporations.

Item 13 rescinds and reserves rules 701—50.2(422) and 701—50.9(422) which are outdated rules regarding the apportionment of income for shareholders of S corporations.

Item 14 amends rule 701—50.10(422) to correct terminology used in an example regarding the apportionment of income for shareholders of S corporations.

Items 15 and 16 amend subrule 52.21(4) and the implementation sentence for rule 701—52.21(15E,422) for corporation income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013. These are similar to the changes in Items 3 and 4.

Item 17 amends rule 701—52.38(422) for corporation income tax to provide for changes in the school tuition organization tax credit. This is similar to the change in Items 5 and 6.

Item 18 amends subrule 52.39(1) for corporation income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 8.

Item 19 amends the implementation sentence for rule 701—52.39(15,422).

Item 20 amends rule 701—52.41(15) for corporation income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 10.

Item 21 amends paragraph 89.8(11)“e” for fiduciary income tax to provide that estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income. This is similar to the change in Item 12.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 23, 2013, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 10, 2013. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2013.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.52 as amended by 2013 Iowa Acts, House File 615; Iowa Code section 15.119 as amended by 2013 Iowa Acts, House File 620; Iowa Code section 422.11S as amended by 2013 Iowa Acts, House File 625; Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295, section 70; and Iowa Code sections 422.5 and 422.8 as amended by 2013 Iowa Acts, Senate File 452; and 2013 Iowa Acts, Senate File 295, section 43.

The following amendments are proposed.

ITEM 1. Amend subrule 42.13(2), introductory paragraph, as follows:

42.13(2) *Tax years beginning on or after January 1, 2007.* Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2013, an individual is allowed an Iowa earned income credit equal to 7 percent of the earned income credit to which the taxpayer is entitled on the taxpayer’s federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 14 percent of the earned income credit to which the taxpayer is entitled on the taxpayer’s federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2014, an individual is allowed an

Iowa earned income tax credit equal to 15 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is refundable; therefore, the credit may exceed the remaining income tax liability of the taxpayer after the personal exemption credits and other nonrefundable credits are deducted.

ITEM 2. Amend rule ~~701—42.13(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295.

ITEM 3. Amend subrule 42.22(4) as follows:

42.22(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall ~~not claim the tax credit prior to the third tax year following~~ claim the tax credit for the tax year in which the investment is made. For example, if an individual taxpayer makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the ~~third~~ tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December ~~2012~~ 2013 and the \$8 million cap for the fiscal year ending June 30, ~~2013~~ 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, ~~2013~~ 2014, and ~~cannot can~~ be redeemed ~~until~~ for the tax year ending December 31, ~~2014~~ 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. ~~The tax credit is not transferable to any other taxpayer.~~

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 4. Amend rule **701—42.22(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15E.43, ~~as amended by 2011 Iowa Acts, Senate File 517; sections~~ 15E.51, 15E.66, 422.11F, and 422.11G; ~~and 2011 Iowa Acts, Senate File 517, section 40~~ section 15E.52 as amended by 2013 Iowa Acts, House File 615.

ITEM 5. Amend paragraph **42.32(4)“a”** as follows:

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is \$2.5 million for the 2006 calendar year, \$5 million for the 2007 calendar year, \$7.5 million for the 2008 through 2011 calendar years, ~~and~~ \$8.75 million for the 2012 and 2013 calendar years, and \$12 million for 2014 and subsequent calendar years.

ITEM 6. Amend subrule 42.32(5) as follows:

42.32(5) Issuance of tax credit certificates. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, which will be designed by the department, will contain the name, address and tax identification number of the taxpayer, the amount and date that the contribution was made, the amount of the credit, the tax year that the credit may be applied, the school tuition organization to which the contribution was made, and the tax credit certificate number.

For tax years beginning on or after July 1, 2009, a tax credit certificate may be issued to corporation income taxpayers. For tax years beginning on or after January 1, 2013, a tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

ITEM 7. Amend rule **701—42.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11S as amended by ~~2011~~ 2013 Iowa Acts, ~~Senate House~~ House File ~~533~~ 625.

ITEM 8. Amend subrule 42.41(1) as follows:

42.41(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

ITEM 9. Amend rule **701—42.41(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 10. Amend rule 701—42.45(15) as follows:

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department of economic development~~ authority may be found at 261—Chapter 76.

This rule is intended to implement ~~2009 Iowa Code Supplement~~ section 15.119 as amended by 2010 2013 Iowa Acts, Senate House File 2380 620.

ITEM 11. Adopt the following new rule 701—42.50(422):

701—42.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—48.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return.

42.50(1) Calculation of the amount of tax credit. The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were 2,150,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of \$55 for the tax year beginning on or after January 1, 2013, but beginning before January 1, 2014 (\$120,000,000 divided by 2,150,000 equals \$55.81, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a \$55 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least \$30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is \$90 million. The difference of \$30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional \$60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30,

2014. This will result in \$90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If 2,150,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a \$41 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning before January 1, 2015 (\$90,000,000 divided by 2,150,000 equals \$41.86, which is rounded down to the nearest whole dollar).

42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayer trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(422D) is added, and after all refundable credits (excluding estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of \$100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a \$40 personal exemption credit and a \$25 franchise tax credit. This resulted in tax due of \$35 before applying the school district surtax. Taxpayer was subject to a \$2 school district surtax which resulted in total tax due of \$37. Taxpayer was entitled to claim a \$55 Iowa taxpayers trust fund tax credit, but only \$37 of credit could be applied on the 2013 Iowa return. The remaining \$18 of credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement 2013 Iowa Acts, Senate File 295, section 43.

ITEM 12. Amend rule 701—50.1(422) as follows:

701—50.1(422) Apportionment of income for resident shareholders of S corporations. For tax years beginning on or after January 1, 1998, resident shareholders of all S corporations which carry on business within and without Iowa may, at their election, determine the S corporation income allocable to sources within Iowa by allocation and apportionment of the S corporation income. Estates For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations cannot which carry on business within and without Iowa can take advantage of these apportionment provisions. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).

For tax years beginning on or after January 1, 1997, a shareholder in an S corporation which carries on business within and without Iowa which has elected to apportion income and then elects not to apportion income shall not reelect to apportion income for three tax years immediately following the first tax year in which the shareholder elected not to apportion income, unless the director of revenue consents to the election.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph "~~j.~~" "j." as amended by 2013 Iowa Acts, Senate File 452.

ITEM 13. Rescind and reserve rules **701—50.2(422)** and **701—50.9(422)**.

ITEM 14. Amend rule 701—50.10(422) as follows:

701—50.10(422) Example for tax periods beginning on or after January 1, 2002.

EXAMPLE. The following example is based on the following facts. The taxpayers are a husband and wife who have two dependent children. Their income consists of husband's wages of \$50,000; rental loss (\$5,000); wife's S corporation income of \$500,000; joint interest income of \$35,000. They have Iowa itemized deductions of \$20,000, and an out-of-state tax credit of \$1,150 on the S corporation income. The actual cash distribution from the S corporation was \$289,840, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$191,214. The S corporation is a value-added corporation which carries on business within and without Iowa with 10 percent of its sales in Iowa.

a. Computation of tax on a joint return basis.

Wages	\$50,000
S corporation income	500,000
Interest	35,000
Rent	(5,000)
Total income	\$580,000
Less federal tax deduction	(191,214)
Subtotal	\$388,786
Less itemized deductions	(20,000)
Taxable income	\$368,786
Tax	\$31,696
Less personal credits husband & wife & two dependents	(160)
Subtotal	\$31,536
Less out-of-state tax credit	(1,150)
Iowa individual tax	\$30,386

Computation of refund credit

Total income	\$580,000
Less S corporation income	(500,000)
Subtotal	\$80,000
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000
Income attributable to Iowa sources	\$205,000
Total income	\$580,000
Taxable percentage	35.3449%
Iowa individual tax before credit	\$31,696
Credit percentage	64.6551%
Subtotal	\$20,493
Less out-of-state tax credit	(1,150)
S corporation tax credit	\$19,343
Amount of refund	\$19,343

Computation of 100 percent of federal income tax attributable to S corporation income: $\$191,214 \times \$500,000 / \$580,000 = \$164,840$.

Computation of percent of income attributable to Iowa sources: $100 \times \$205,000 / \$580,000 = 35.3449\%$.

Computation of percent of income attributable to non-Iowa sources: $100 - 35.3449\% = 64.6551\%$.

b. Computation on a separate filing on a combined return basis.

	Spouse	Taxpayer
Wages	\$50,000	-0-
S corporation income	-0-	\$500,000
Interest	17,500	17,500
Rent	(5,000)	-0-
Total income	\$62,500	\$517,500
Less federal tax deduction	(20,613)	(170,601)
Subtotal	\$41,887	\$346,899
Less itemized deductions	(2,156)	(17,844)
Taxable income	\$39,731	\$329,055
Tax	\$2,293	\$28,128
Less personal credits taxpayer & spouse & two dependents	(120)	(40)
Subtotal	\$2,173	\$28,088
Less out-of-state tax credit	(-0-)	(1,150)
Iowa individual tax	\$2,173	\$26,938

Computation of refund credit

Total income	\$517,500
Less S corporation income	(500,000)
Subtotal	\$17,500
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000
Income attributable to Iowa sources	\$142,500
Total income	\$517,500
Taxable percentage	27.5362%
Iowa individual tax before credit	\$28,128
Credit percentage	72.4638%
Subtotal	\$20,383
Less out-of-state tax credit	(1,150)
S corporation tax credit	\$19,233
Amount of refund	<u>\$19,233</u>

Taxpayer's computation of 100 percent of federal income tax attributable to S corporation income: $\$170,601 \times \$500,000 / \$517,500 = \$164,832$.

Taxpayer's computation of percent of income attributable to Iowa sources: $100 \times \$142,500 / \$517,500 = 27.5362\%$.

Taxpayer's computation of percent of income attributable to non-Iowa sources: $100 - 27.5362\% = 72.4638\%$.

This rule is intended to implement Iowa Code section 422.8, subsection 2, paragraph "~~b~~," as amended by 2002 Iowa Acts, House File 2078. "b."

ITEM 15. Amend subrule 52.21(4) as follows:

52.21(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall ~~not~~ claim the tax credit ~~prior to the third tax year following~~ for the tax year in which the investment is made. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the corporation taxpayer cannot claim the tax credit ~~until the tax year ending December 31, 2015.~~ For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the ~~credit may be redeemed~~ investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the ~~third~~ tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ending on December 31, ~~2012~~ 2013, makes an equity investment in December ~~2012~~ 2013 and the \$8 million cap for the fiscal year ending June 30, ~~2013~~ 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, ~~2013~~ 2014, and ~~cannot~~ can be redeemed ~~until~~ for the tax year ending December 31, ~~2014~~ 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. ~~The tax credit is not transferable to any other taxpayer.~~

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 16. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 15E.66~~; sections 15E.42, 15E.43, 15E.66, and 422.33 as amended by 2011 Iowa Acts, Senate File 517; and 2011 section 15E.22 as amended by 2013 Iowa Acts, Senate House File 517, section 40 615.

ITEM 17. Amend rule 701—52.38(422) as follows:

701—52.38(422) School tuition organization tax credit. Effective for tax years beginning on or after July 1, 2009, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. ~~The~~ For tax years beginning on or after January 1, 2013, the credit is ~~not~~ available for S corporations, partnerships, ~~and~~ limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, ~~or~~ members or beneficiaries. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the corporation, partnership, limited liability company, estate or trust. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule ~~701—42.30(422)~~ 701—42.32(422).

52.38(1) Amount of tax credit authorized. Of the \$7.5 million of school tuition organization tax credits authorized for the 2009 through 2011 calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and ~~subsequent calendar years 2013~~, no more than 25 percent, or \$2,187,500, can be authorized for corporation income tax taxpayers. Of the \$12 million of school tuition organization tax credits authorized for 2014 and subsequent calendar years, no more than 25 percent, or \$3 million, can be authorized for corporation income tax taxpayers.

52.38(2) and 52.38(3) No change.

This rule is intended to implement Iowa Code section 422.33.

ITEM 18. Amend subrule 52.39(1) as follows:

52.39(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

ITEM 19. Amend rule **701—52.39(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.293A as amended by 2011 Iowa Acts, Senate File 514, and ~~section 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.~~

ITEM 20. Amend rule 701—52.41(15) as follows:

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment

tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department of~~ economic development authority may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Code Supplement section 15.119 as amended by 2010 2013 Iowa Acts, ~~Senate~~ House File 2380 620.

ITEM 21. Amend paragraph **89.8(11)“e”** as follows:

e. Other tax credits. All other tax credits set forth in Iowa Code chapter 422, division II, are also available for any estate or trust that meets the criteria for claiming these tax credits. For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations which carry on business within and without Iowa can take advantage of the apportionment provisions for S corporation income set forth in 701—Chapter 50. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).